

STATE OF ILLINOIS  
90TH GENERAL ASSEMBLY  
HOUSE OF REPRESENTATIVES  
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132nd Legislative Day

November 17, 1998

Speaker Madigan: "The House shall come to order. The House shall come to order. The Members shall be in their chairs. We shall be led in prayer today by the Reverend Dale Hauser of St. John's Lutheran Church and Emmanuel Lutheran of Onarga. Reverend Hauser is the guest of Representative Dale Righter. The guests in the gallery may wish to rise and join us in the invocation."

Reverend Hauser: "In the name of the Father and of the Son and of the Holy Spirit, Amen. Lord God, Heavenly Father, we thank You for granting us salvation through the sacrifice of Your Son, Jesus Christ. We praise You for placing us in a great country filled with freedoms and ask that You keep us mindful of our responsibilities to these freedoms. Lead us to follow the laws and the principles that guide our country. Remove the sinfulness of hate and prejudice and poverty from the hearts of all Americans. Open our eyes to see the opportunities to live with the ideals of Christ and empower us to set aside greed and all evil so that we may be witnesses to the world of all that is good and right. We pray for all these people whom You have placed in office as public servants. We thank You for protecting them from harm and danger during the recent campaign and ask that You continue to watch over them and their families. Grant them productive days and restful nights. Give them joyful times together as respites from the service to Your people. Grant to them grace to make wise decisions. Bless them with good staffs and co-workers who make their jobs easier and more effective, that all who speak in this building use words of truth. Make every action taken to be in accord with Your law and Your will. Allow their constituents to be pleased with all their Representatives and to speak well of them. Make possible for these women and men to find

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equitable ways of providing for the education of all our youth. Provide them with answers to fund the entire required core of classes for each student, no matter which school this child attends. Conduct their sessions so that excellence is achieved in education and in those who educate. Persuade these servants to protect the lives of all. Furnish legislation that ensures health care for all in need and that reins in the health care insurers and providers so that the bottom line is never the dollar, but always the person. Teach us all to respect human life at all ages and all stages of development and to reflect that message in all we do. Help these Legislators to avoid all the temptations they encounter. Instill in them a respect for the trust You and Your people have placed in them. Permit them to be role models to our youth and our adults. Let Your people give them the honor and respect due to those You have placed in authority. Further their careers and grant them blessed retirements to reflect on the good they have performed as Your servants. Lord Jesus, You declared that there would always be poor among us. You also commanded that we bear one another's burdens. We implore You to help these women and men find solutions for helping our poor and for inspiring and educating those who are welfare-dependent to find better means of providing for themselves and their families. Aid our welfare departments to handle the ever increasing load of people and problems, so that all things work for good. Confer insight to the Members of the House and Senate to examine our prison system and parole system. May the established rules be properly enforced so that justice is not considered a joke in our state. Reform the system where changes need to be made and improve the system where it is doing the job of

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leading people away from crime. We pray for wisdom in using and raising taxes. Help our Legislators to find ways to inspire confidence in all the people of Illinois, that the monies that are raised are being used wisely and keep all corruption and graft from all of our state's business. Order the thoughts of these decision makers, that they may improve the infrastructure of our state and do so in ways that bring greater employment to our residents as well as bring pride to us all. Grant a spirit of cooperation among all the officials of this state, so that they may prepare for good and graceful transitions for those recently elected. Let those who are returning to the private sector be heartened by thankful people and comforted in the good accomplishments of their time in office. May those entering new offices use this time to prepare themselves for their responsibilities, and may those returning to office redouble their efforts to be honored and faithful servants of the people of our state. Furnish a spirit of unity to this Congress, that it may be filled with progress instead of posturing and peace instead of discord. Grant them insight to draft their legislation so that it is in compliance with our laws and withstands all challenges that may hinder the good these people are trying to accomplish. We ask all these things in the name of Jesus, our Lord and Savior. Amen. May the Lord be above you to shelter you. May He be before you to guide you, beside you to protect you, beneath you to support you, and within you to strengthen you. May the grace of God, the Father, the love of God, the Son and the fellowship of the Holy Spirit be with you all. Amen."

Speaker Madigan: "We shall be led in the Pledge of Allegiance by Representative Hartke. Please give your attention to

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Representative Hartke."

Hartke - et al: "I pledge allegiance to the flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all."

Speaker Madigan: "Roll Call for Attendance. Representative Currie."

Currie: "Thank you, Speaker. Please let the record reflect that Representatives Phelps and Schakowsky are busy learning the ropes in the 'Big House' to the East, and they are both officially excused today."

Speaker Madigan: "Mr. Cross."

Cross: "Thank you, Mr. Speaker. Representative Biggert is likewise excused today, please."

Speaker Madigan: "Have all recorded themselves? For what purpose does Mr. Boland seek recognition? Mr. Clerk, take the record. There being 115 people responding to the attendance roll call, there is a quorum present. Mr. Clerk."

Clerk Rossi: "Attention Members! The House Rules Committee will meet at 1:15 in the Speaker's Conference Room. The Rules Committee will meet at 1:15 in the Speaker's Conference Room. Introduction and First Reading of House Bills: House Bill 3893, offered by Representative Zickus, a Bill for an Act in relation to criminal law. House Bill 3905, offered by Representative Smith, a Bill for an Act to amend the Illinois Pension Code. First Reading of these House Bills."

Speaker Madigan: "Mr. Brunsvold. Mr. Brunsvold."

Speaker Brunsvold: "Representative Brunsvold in the Chair. The Gentleman from Vermilion, Mr. Black, for what purpose do you rise?"

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Black: "Yes, thank you very much, Mr. Speaker. A point of personal privilege if I might."

Speaker Brunsvold: "State your point, Sir."

Black: "Yes. It has come to my attention that in the chamber today is a young man who is trying to fill the large shoes of former Representative Jack Kubik. That Gentleman being Representative William O'Connor. And it's been also... hello. Is there a doctor in the House? It has also come to our attention that Mr. O'Connor is celebrating a birthday, this very day."

Speaker Brunsvold: "Heavens!"

Black: "And in the absence of our designated singer, Representative, excuse me, now Congressman-elect David Phelps, I think we'll dispense with singing Happy Birthday. But we are on our side of the aisle very glad that Representative O'Connor turns 21 today so that he can officially be a Member of the 91st General Assembly. And since he's a rookie I don't see any cake, and if no cake is forthcoming, Mr. Speaker, I wish that these remarks will be stricken from the record."

Speaker Brunsvold: "Absolutely, Mr. Black. Happy Birthday, Representative. Happy Birthday. The Body would also suggest that the Representative would provide cake for the Members at a later date, now that he knows the procedure. The Gentleman from Peoria, Mr. Leitch."

Leitch: "Thank you, Mr. Speaker. If it be appropriate at this time, I've conferred with Representative...Majority Leader Currie, I'd like to move to discharge House Bill 525 from Rules and put it on the Order of Concurrence."

Speaker Brunsvold: "Thank you, Mr. Leitch. The Motion would be referred to Rules. Representative Currie is on her way to discuss that issue with you. The Gentleman from Kendall,

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Mr. Cross, for what purpose do you rise?"

Cross: "Thank you, Mr. Speaker, just for an announcement. Tomorrow from 8:00 a.m. till Noon in the second floor, south hallway of the Capitol Building, there will be a health fair put on by the Governor's Council on Health and Physical Fitness and Southern Illinois. There will be a variety of free screenings..."

Speaker Brunsvold: "Please, Ladies and Gentlemen, give Mr. Cross your attention."

Cross: "...as well as... thank you...that's it... Thank you."

Speaker Brunsvold: "State your announcement again, Mr. Cross."

Cross: "Tomorrow from 8:00 till Noon, second floor, south hallway of the Capital Building a health fair put on by the Governor's Council on Health and Physical Fitness. A variety of free screenings will be provided as well as general health and fitness information. Thank you."

Speaker Brunsvold: "Thank you, Mr. Cross. The Lady from Will, Representative Kosel."

Kosel: "I rise on a point of personal privilege."

Speaker Brunsvold: "State your point."

Kosel: "We have with us today three classes from Lincoln-Way Community High School up in the gallery. Tech-prep classes that are down here to see how the system works and I'd like to take this opportunity to welcome them to Springfield."

Speaker Brunsvold: "Welcome to Springfield. Ladies and Gentlemen, on page 3 of the Calendar under Amendatory Veto Motions appears House Bill 94. Amendatory Veto Motion. Out of the record. House Bill 1151, Amendatory Veto Motions - Override. Gentleman takes that out of the record. The Lady from Sangamon, Representative Klingler, for what reason do you rise?"

Klingler: "Thank you very much. A point of personal privilege."

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Speaker Brunsvold: "State your point."

Klingler: "Ladies and Gentlemen, I'd like you to join me in welcoming the government class from Auburn High School in Auburn, Illinois. They're up in the Speaker's Gallery. Thank you for being here."

Speaker Brunsvold: "Welcome. Welcome to Springfield. On page 3 of the Calendar appears House Bill 2370 under veto...Amendatory Veto Motions, Representative Gash. Representative Gash. Out of the record."

Clerk Rossi: "The House Rules Committee is meeting in the Speaker's Conference Room. The Rules Committee is meeting in the Speaker's Conference Room."

Speaker Brunsvold: "On page 3 of the Calendar under Amendatory Veto Motions appears House Bill 1151, Amendatory Veto #1, Representative Dart. Representative Dart."

Dart: "Thank you, Mr. Speaker and Members of the House. I move to override the Amendatory Veto of House Bill 1151. This is a Bill we discussed at length during the past General Assembly. This is an attempt to clarify a mistake that was made back in 1986 dealing with the local governmental immunity. What this attempts to do is make it clear that in the instances of willful and wanton conduct that there is, in fact, liability in those instances, and those instances alone. It is clear that this is a mistake that was made awhile back, unfortunately. We are attempting to clarify this now. This is a Bill that passed out of here, I think it was 110-1... or something... 114-1. It passed unanimously out of the Senate, and the Governor vetoed it amendatorily, and made the Bill actually much worse. I would appreciate your vote, and I would be happy to answer any questions."

Speaker Brunsvold: "The Gentleman has asked for the override of

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the Governor's Amendatory Veto, and on that question, is there any discussion? The Gentleman from Vermilion, Mr. Black."

Black: "Yes, thank you very much, Mr. Speaker. As I was the 'no' vote on the original Bill... I'd appreciate a little order in the chamber. This Bill does have some important implications for local governments."

Speaker Brunsvold: "Give the Gentleman some order, please. Let's take our caucuses off of the floor, please."

Black: "Thank you very much, Mr. Speaker. Will the Sponsor yield?"

Speaker Brunsvold: "Sponsor yields."

Black: "Representative, when a city is sued, it's a popular lexi... in the lexicon of our language, it is popular to say that the City of Chicago was sued, and the City of Chicago lost the lawsuit, and the City of Chicago will pay \$5,000,000. But in effect, who really pays?"

Speaker Brunsvold: "Mr. Dart."

Dart: "Thank you. Most of these governmental unities... units have insurance, and so it would be either the insurance pool, which they've set aside... In most of these units, if you take a look and do an analysis of their budgets for example, approximately 1% of their entire budget goes into the insurance pool. So I guess what you're getting at... who's paying, and I understand what you're saying, it's the taxpayers in a given area who are having to pay taxes. But I guess if that's the question then, that an individual who is injured, does that mean that if it just so happens that it's a city official, it's a city facility where it occurs at, that that's tough luck. We're sorry, you're out of luck, the fact that you've been paralyzed, you've been put on machines the rest of your life, tough luck, nothing we



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can do about it. It was an obvious mistake that was made, and what we're saying here in this very, very slim situation of wanton and willful conduct, not negligence, wanton and willful, that we are asking that they should be allowed to be covered."

Black: "Well I appreciate your editorial comments, but the fact is the taxpayer pays the premiums on the insurance policy, and in many cases if they choose to be self insured, they can rely on a tort liability to levy taxes to pay the judgment. Now, I don't usually get correspondence from the Office of the Mayor of the City of Chicago, and I was honored to receive one the other day, and he even spelled my name right. And it wasn't about a parking ticket..."

Dart: "... As I say, it had nothing to do about a parking ticket, huh?"

Black: "It wasn't about a parking ticket. So, I mean, I'm keeping this letter from the Mayor of the City of Chicago, a fine outstanding Gentleman. He says that we should vote against your Motion to Override. Now why would you, a good resident of the City of Chicago, someone that many of us are pushing to be Mayor of the City of Chicago when your time comes due in 20 or 30 more years, why are you opposing the Mayor of your great city?"

Dart: "It shows you just how darned independent I am. I read the same letter."

Black: "Did we get that... did we get that on the transcript? Well we're piping this back to Chicago. What was that you said? Your independence? I see."

Dart: "Yeah and I read the same letter as well. I just take issue with some of the points that were made. Frankly, I just don't agree with their line of thinking here. As I said, I'd be in agreement with you, Representative, if we

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were talking about just all acts of negligence, but we're talking about such a slim group where people have gone out of their way with willful and wanton conduct, and that's where we do... we just disagree, and I do appreciate the fact that you were correct, you were the only opponent."

Black: "Consistent rather than correct perhaps, but be that as it may, I think the City of Chicago probably has more parks, more acreage devoted to parks, as I recall, than most cities its size. And if I read correctly what the Mayor is saying, if they want to avoid lawsuits wouldn't the Mayor and the City Budget have to supervise every park if they really wanted to limit their liability?"

Dart: "Now, the requirement under this Bill would kick in when they have undertaken supervision, or whether by law, common law, ordinance or the like, had been required to supervise."

Black: "How does one make that judgment? When you operate dozens and dozens of parks and dozens of public swimming pools, and dozens of public access areas along Lake Michigan, what will the rule of thumb be on what you supervise, and what you don't?"

Dart: "Thankfully they have this large corporation counsel office and all these lawyers to keep busy. But most of it will come down to an analysis of where they are required by statute, or by ordinance, or by common law, to supervise. And some of this, frankly, comes down to common sense as well on their part. But that would be the way they would be dictated as far as where they'd have to supervise."

Black: "Well, I appreciate the Sponsors indulgence, Mr. Speaker. To his Motion, and I realize the noise level is very... somewhat loud to say the least in the chamber right now. Let me just say that I voted against this Bill last spring,

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and I had a hunch that we'd revisit it. And I guess maybe I've been here too long, because I never thought I would sit on this House floor and hear a resident of the City of Chicago, question Mayor Daley as to the veracity of a statement that the Mayor has sent all of us. And if you read the Mayor's letter carefully, and if you read other pieces of correspondence that you have received from park districts, and from many of your own municipalities like... for instance where I live. I quote from one letter 'The problem with House Bill 1151 as passed by the General Assembly is that it exposes local government to liability in all instances in which a failure to supervise is asserted, and a duty to provide supervision is imposed by common law, statute, ordinance code or regulation. I think this is a clear cut case... a clear cut case, Mr. Speaker, that the Governor's Amendatory Veto power is correct. He saw something in the Bill that many of us did not last spring. Many of your mayors and city councilmen and park commissioners have asked you to agree with and concur with the Governor's Amendatory Veto. I stand in opposition to the Motion to Override the Governor, and ask that you vote against this Motion, and bring some common sense into the courts. Do not subject your cities, your parks, your recreational districts to excessive lawsuits and high judgments. Trust them to do what it is they are obligated to do under the law. This expands their liability. I don't know of any municipality that's in favor of it. I ask you to vote 'no'. Mr. Speaker, should it get the requisite number of votes, I'll seek a verification."

Speaker Brunsvold: "Your Motion has been acknowledged. The Gentleman from Kendall, Mr. Cross."

Cross: "Thank you, Mr. Speaker. Will the Sponsor yield for just

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a question? Tom, there's a little confusion on our side of the aisle concerning the... and maybe you addressed this with Bill, and I'm sorry I just didn't hear you, as to whether or not the Municipal League supports or opposes your Motion to Override? Tom, can you hear me?"

Dart: "Tom, what the question was, whether the Municipal League supports this?"

Cross: "We've been told that they don't support it or that they do support it... then we... someone apparently just talked to a representative from the Municipal League, and they say they are opposed to your Motion."

Dart: "Tom, the last communication I had gotten from the Municipal League was that they were neutral on it. That's not to say people wouldn't change, but the last I heard from them they were neutral on it. I've got South Suburban Mayors and Managers, The Illinois Association of County Board Members, Metro Counties are all supportive of this, the Northwest Municipal Conference, DuPage Mayors and Managers are all... they're all listed as supporters of the Bill. There was... my understanding is, is because of the City of Chicago's opposition, the Municipal League was neutral on it. I don't know if that's since changed, so I... I have not heard from the Municipal League and... on this since they said their position was neutral."

Cross: "Mr. Speaker, I can't... it's a little crazy in here with all due respect."

Speaker Brunsvold: "Your point is well taken, Mr. Cross. This is generally the mood everybody is congratulating everybody. Please let's keep it down. You can keep it down to a small roar. Mr. Cross, you may have to put up with a little noise today."

Cross: "It's obviously dropped quite a bit."

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Speaker Brunsvold: "Huh. Well, continue please. We'll try to keep the noise down."

Cross: "Tom, I guess our understanding is that they prefer the Governor's language in the Amendatory Veto, so I don't know if you've got... we just were told that..."

Dart: "Yeah. I was... I've never been made aware of that."

Cross: "Alright, just so people are aware of that. I know I supported this Bill before, and I frankly intend to support your Motion, but I think people need to know the... where the Municipal League is on it, and apparently they do not support your Motion to Override."

Dart: "Yeah."

Cross: "So thank you."

Speaker Brunsvold: "Thank you, Mr. Cross. Gentleman from Cook, Mr. Stroger."

Stroger: "Thank you, Mr. Speaker. Will the Sponsor yield?"

Speaker Brunsvold: "The Sponsor yields."

Stroger: "Representative Dart, I know that the city and the county have questions about the areas that they cannot man and that an accident happens there, what kind of liability they have. Could you speak to that?"

Dart: "They made reference to that, but as I mentioned before, they're only required to supervise the areas where they're going to have statutory, or ordinance, or common law, and I think there was one other one, requirement under law to do. So this wouldn't be a blanket requirement, but they'd have to supervise everything, and we have to keep in mind too we're not saying that if someone then makes a mistake you then have a lawsuit. There has to be wanton and willful conduct here, so this is a very narrow group."

Speaker Brunsvold: "Mr. Stroger."

Stroger: "Thank you, Representative. I just think that the Bill

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would open up a lot of lawsuits, and that we should all vote 'no'. Thank you."

Speaker Brunsvold: "Ladies and Gentlemen, let's please have some silence in the back of the room, there are discussions going on, people not... that do not have access to the floor, please leave. The Members are trying to debate a Bill, and we need silence please. Take your caucuses off of the floor. The Gentleman from Champaign, Mr. Johnson."

Johnson, Tim: "Thank you, Mr. Speaker and Members of the House. I really can't... as the Chair has indicated, I can't and I don't think anybody else can address this Bill, with the current... if we're going to discuss it... an important issue, we've got to have some attention or we're not going to be able to do it responsibly."

Speaker Brunsvold: "Please listen to the Gentleman he makes good point. Please let's have some quiet so the Bill can be discussed, it's very important. Please take your conversations off of the floor."

Johnson, Tim: "Well to all four people who are listening, maybe I can persuade these four people that are listening, to the correctness of Representative Dart's position. This issue is so easy, and so clear that it is incomprehensible that anyone could vote against Representative Dart's Motion. We passed this Bill nearly unanimously in both chambers last spring. And it was done with the agreement, and with the full knowledge of all parties... or all relevant parties involved. And all the Bill did was this, in 1986 when we passed the Tort Reform Act, we made a mistake, or a mistake was made. Wherein we gave blanket absolute immunity to units of local government for any kind of liability, whether you have negligence which is... continues to be immunized under this Act, or intentional misconduct, the

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previous and existing law immunizes local government from liability in any case. Local government could put an electric fence with high voltage on a park ground and if an individual is electrocuted, no liability. You could ring a entertainment area or playground with sharp stakes and have a youngster impaled, no liability. All this Bill does is to say that in cases of willful and wanton misconduct, which is really in effect intentional misconduct, that there's liability just like there is in virtually every other area. It doesn't say contrary to the assertions of some new found opponents to this Bill that you can now... although I believe, perhaps this would be wise policy, but it doesn't say that you can bring an action... a cause of action against a unit of local government for negligence. You can't do that now, and you can't do it after this Bill. All this Bill does is to say that in those limited cases where employees of units of local government are so reckless, and so wanton in their disregard for young peoples, and other peoples safety, that death or serious bodily injury results, that there's a cause of action. This is a very limited piece of legislation, and to say 'no' to Representative Dart's Bill ignores the agreement of everybody that we made last spring, and ignores any concept of fairness, humaneness, or justice in our civil justice system. Because if you vote 'no' on this Bill, just so you understand, and somebody in a park in Chicago, a 6 year old child impales themselves on a stake out of the ground, and their family loses this youngster forever, there's no liability. If you vote 'no' on this Bill, you're saying it's okay to ring a swimming pool, and it's not covered under the exception because this is on the grounds, with a high voltage electric fence so that you can electrocute or

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permanently impair a youngster, that's okay. That's what you're saying if you vote 'no' on this Bill. If you vote 'yes' on this Bill, you're simply saying that units of local government, while they're not liable now, and shouldn't be liable under Illinois law for common everyday negligence, ought to be liable when their agents or their units of government conduct acts that are willful and wanton misconduct or intentional misconduct. That's all the Bill does, and I urge everyone on both sides of the aisle of whatever your philosophy is, to keep the commitment we made, keep the agreement that we made, and vote 'yes' on Representative Dart's Bill."

Speaker Brunsvold: "Further discussion. The Lady from DuPage, Representative Pankau."

Pankau: "Thank you, Mr. Speaker. Will the Sponsor yield?"

Speaker Brunsvold: "Sponsor yields."

Pankau: "We are hearing that there are certain park districts that are against this Bill. Do you happen to know why?"

Dart: "Well, certain ones are against it because, I'm sure, that they don't believe that under any circumstance at all they should ever be held accountable for any action whatsoever, which to me stands logic and reason...that as Representative Johnson was mentioning, if people have these actions which are willful and wanton... intentional actions that maim and paralyze people, I think they should be, but through a mistake of the Legislature back in '86 we let this happen, and now we're trying to correct it. So, I'm sure that their opposition is just because they don't believe any time for whatever reason they should ever be held accountable for anything, which I think is so irresponsible. The rest of us don't live by that standard."



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Pankau: "Tom, do you happen to know if the Park District Association itself has taken a position on it, or is it just individual members for whatever reason?"

Dart: "I'm not sure of that. I have the Park District Risk Management Agency, the Illinois Governmental Association of Pools, Intergovernmental Risk Management Agency, DuPage Mayors and Managers, Northwest Municipal Conference, South Suburban Mayors and Managers, the Illinois Association of County Board Members and Commissioners, Metro Counties and, hold on to your socks, the Illinois Civil Justice League, are supporting... all of them are supporting this. The Illinois Civil Justice League who has fought like tooth and nails on all of these issues, even they agree that this is the right thing, and are supporting this."

Pankau: "Okay, thank you, Tom."

Speaker Brunsvold: "Further discussion? The Gentleman from Logan, Mr. Turner."

Turner, John: "Thank you, Mr. Speaker. Will the Sponsor yield?"

Speaker Brunsvold: "Sponsor yields."

Turner, John: "Representative Dart, perhaps you could very briefly tell the Body about the case that caused the origination of this Bill regarding the swimming pool accident, and the failure to assist a child that was drowning."

Dart: "Thank you very much, Representative. What is was, was a case that happened up in Zion in which a child was in a pool, and hit their head. Went to the bottom of the pool. There was 11 lifeguards on duty, none of the lifeguards noticed it. Well, I guess you can cut them some slack, I suppose in some situations, but two separate occasions people went up to the lifeguards and told them 'there's a child at the bottom of the pool', and they refused to do

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anything. They basically said 'they didn't see it' so they don't have to do anything about it. A citizen eventually jumped in the pool and pulled the child out, and unfortunately, the child died. As a result of that, there was a lawsuit brought, and because of the way this law was goofed up in the first place, the family of this child walked away with nothing, and I'd like to make a point of saying both the Appellate Court and Supreme Court in a very rare move, asked the General Assembly to do something about this devastating, that was their word, devastating impact of this law that we have on the books, and that's what we're attempting to do."

Turner, John: "Well it's kind of hard to hear here, but I think you're saying then that someone witnessed this child drowning in the swimming pool, did absolutely nothing about it, and there was no liability imposed, and because the Bill will now make such willful and wanton conduct such as that... will make that liable so that someone will have to pay in circumstances such as that. Is that correct?"

Dart: "Correct."

Turner, John: "And as I understand it also, the Amendatory Veto would cover that situation with a swimming pool only, but would not cover any other kind of situation. Is that correct?"

Dart: "Correct."

Turner, John: "So that there could be a situation where there isn't a swimming pool, but a child is injured for some reason, it's noted by the employee of the public entity, and they simply failed to assist that child who may die, and if we don't vote for your Bill, there will be no liability in that kind of situation. Is that correct?"

Dart: "Correct."

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Turner, John: "So in essence then you're simply, by overriding the Amendatory Veto, expanding it so that the willful and wanton conduct is not only limited to pool situations but other situations where public entities have willful and wanton conduct, and responsible therefore, and liable therefore their actions."

Dart: "Correct."

Turner, John: "Ladies and Gentlemen, I agree with Representative Tim Johnson who has spoken eloquently on this Bill. I believe that we should vote in favor of Representative Dart's Motion. I intend to do so, and encourage other Members of the Body to do so as well. Thank you."

Speaker Brunsvold: "Thank you, Representative. The Lady from Cook, Representative Mulligan."

Mulligan: "Thank you, Mr. Speaker, will the Sponsor yield?"

Speaker Brunsvold: "The Sponsor yields."

Mulligan: "Representative, did I understand you to say that the Illinois Civil Justice League is in favor of the override of this Bill?"

Dart: "Yes, they are."

Mulligan: "Could you tell me what premise they've used to support that?"

Dart: "What leads me to say that? I've been informed by... the Civil Justice League, I think, were supportive of this because... it's just basic fairness concepts was the reason why. They supported the original Bill, and they support the override as well for the reasons I think that are apparent, as Representative Johnson mentioned, that this law was a mistake, and it's led itself to be utilized in such a way to just incredibly devastating effects. It's led our Supreme Court, and everybody else to say 'will you guys wake up and finally do something about it?', and we

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worked for years on this with all the different parties to try to come to agreement. A couple of people didn't come to agreement, but the Civil Justice League was one of those people that we worked with, and they're supportive of it."

Mulligan: "All right, so they're supportive of the total override, not just the Amendatory Veto?"

Dart: "That is my understanding."

Mulligan: "I just find that to be a strange position, that's why I want to make sure of what you're saying."

Dart: "Well, I think it's just an ability to be consistent because they were in favor of the Bill as it passed both Houses, as I mentioned, almost unanimously. They were in favor and supporting the Bill at that point. The Governor's Amendatory Veto language basically just took it back to where it was before which was what we were trying to change. So, I think just in an effort to be consistent their support stays with the Bill then, because to support the Governor's Amendatory Veto basis let's go back to before we started doing anything."

Mulligan: "Before we went back to doing anything, could you give me a general idea of how many lawsuits are filed and settled even though it doesn't involve willful and wanton? I mean could just... anybody can file a lawsuit and until you get into court and have someone decide that it doesn't meet the standards the municipalities have spent a lot of money on lawyers and lawyers fees which are basically the taxpayers dollars."

Dart: "Yeah. I'm unaware of the numbers as far as you asking for as how many lawsuits were filed alleging willful and wanton. I'm not sure of that, and as I mentioned earlier, we looked at just the numbers as far as the overall costs in a individual municipality budget and county budgets for

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the insurance that covers these such acts, and it represents 3% of their budget. Outside of the money issue, how many attorneys it would take, I'm not sure of that."

Mulligan: "When you originally Sponsored this Bill, it was pretty much passed overwhelmingly out of the House, on the initial go round, did the Illinois Civil Justice League also support this position?"

Dart: "I'm sorry, can you repeat that? I didn't hear the end of it."

Mulligan: "When this initially passed the House it had overwhelming support. Originally when you passed the Bill earlier this year, was the Illinois Civil Justice League then in support of your Bill?"

Dart: "Yes, it was."

Mulligan: "Thank you."

Speaker Brunsvold: "Further discussion? The Gentleman from DuPage, Mr. Johnson."

Johnson, Tom: "Yes, Mr. Speaker and Members of the House."

Speaker Brunsvold: "Proceed."

Johnson, Tom: "I rise in strong support of Representative Dart's Motion here, and I will keep it very short and to the point. I do not believe that anybody in any situation or any agency, should be able to avoid responsibility where willful and wanton conduct on the part of either the agency, the district, or an individual is involved. Willful and wanton conduct is a blatant infraction on peoples safety and rights and liberty and so on, and I stand with Representative Dart in this Motion, urge my colleagues to do the same. In fact, I think 110 of my colleagues or 14, I forget what the vote was originally, saw this point the first time around, and voted in favor of this legislation before the Governor has really returned

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the standard back to where it was before we passed this Act in this past Session. Thank you."

Speaker Brunsvold: "Thank you, Representative. The Lady from DuPage, Representative Cowlshaw."

Cowlshaw: "Thank you very much, Mr. Speaker. Will the Sponsor yield for a question?"

Speaker Brunsvold: "The Sponsor yields."

Cowlshaw: "Representative Dart, I have before me a letter from the General Superintendent of the Chicago Park District. She says in her letter 'Municipalities, school districts, park districts, and other local governments face an unwarranted burden as a result of House Bill 1151.' She then goes on to say, and I hope you are listening to your General Superintendent of the Chicago Park District, 'The General Assembly has not seen fit to put this type of burden on the agencies responsible for the state's parks, universities, and other state facilities. It seems particularly unfair to place a burden upon local governments that the state, itself, is unwilling to shoulder.' My question to you, Representative Dart, and I commend you for Sponsoring House Bill 1151. My question to you is, Do you intend to introduce a Bill that would put the state, through that Bill, into the same situation that you put units of local government in for willful and wanton actions? Do you intend to introduce such a Bill?"

Dart: "Yes, Representative, and I read the same letter you did as well. I would like to do that. The only caveat is, I wouldn't do it if there was a constitutional reason that I'm unaware of right now that I couldn't do it. But otherwise, I read the same letter, and I thought it was unfair not to have them in there as well. I would love to include them. I would love to do it next year. As I said,

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'The only reason I wouldn't would be if, in fact, there is a constitutional reason why I can't.'

Cowlshaw: "Well, Representative Dart, I would like to volunteer to work with you on that if I may, please? Because as you know, one of the things that those of us in State Government criticize the Federal Government for, is imposing upon states those things which it does not impose on the Federal Government. We don't want to turn around and be guilty of the same thing ourselves. So if you would like to have someone to maybe help you... "

Dart: "...Yes. Yes."

Cowlshaw: "... to look into those issues. But I think if we're going to do this to units of local government, we should do it to the state too."

Dart: "Yeah, I'd love to work with you on it, Representative."

Cowlshaw: "Thank you."

Speaker Brunsvold: "Mr. Dart to close."

Dart: "Thank you. I'll be brief. We've talked at length about this Bill. We're trying to correct a terrible oversight that occurred years back that has led to some true abominations in the legal system where some people were horribly injured. This is a very, very narrow exception we're making here, and it has wide spread support. As I mentioned before, we have the Illinois Governmental Association of Pools, the Park District Risk Management Agency, the Intergovernmental Risk Management Agency, DuPage Mayors and Managers, Northwest Municipal Conference, South Suburban Mayors and Managers, the Illinois Association of County Board Members, the Metro Counties, The Chicago Bar Association, the Illinois State Bar Association and the Trial Lawyers Association. And as I said before folks, if there's any better reason... if any

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better example to understand the amount of compromise that brought this in front of us, the Illinois Civil Justice League is a supporter of this Bill. There was a lot of compromise made to truly cure an injustice here. I appreciate everyone's comments and support of this Bill, and I'd appreciate your vote."

Speaker Brunsvold: "The question is, 'Shall House Bill 1151 pass, not withstanding the Governor's specific recommendations for change?' This Motion requires 71 votes. This is final action. All in favor vote 'aye'; all opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. The Gentleman has removed his request for a verification. This Motion having... There are 85 voting 'yes', 30 voting 'no' and 0 voting 'present'. This Motion, having received the required Three-Fifths Majority, the Motion to Override prevails and House Bill 1151 is declared passed, notwithstanding the Governor's recommendations for change. Mr. Black."

Black: "Yes, thank you very much, Mr. Speaker. I requested a verification that I will withdraw if you will indulge me for about 45 seconds. In all due respect to the Chair..."

Speaker Brunsvold: "Proceed. Proceed."

Black: "...and in all due respect to everyone on the House Floor, including those who are elected and should be here, I'm dead serious. I will..."

Speaker Brunsvold: "Proceed."

Black: "I will file a Bill to grant immunity to Members of this Body for making bad and uninformed votes whenever the noise level gets above the OSHA recommended decibel. There weren't eight people in here who heard anything. Now, if



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you voted your conscience, that's good. But, you know, the last time we did this when nobody could hear, Members of this chamber for weeks afterward tried to bring a Bill back from the Senate because they passed a Bill that did far more than they thought it did. I would just simply submit to the Chair and all those on the House Floor who have no business on this floor, there are more people on this floor than you would expect on the last night of session when everybody's worried about their budgets. There is no reason for us to debate any Bill, not to mention a Bill of the import of the last one, when you cannot hear and you cannot move and you cannot even get your computer to work because there are people running all over the floor. The noise level is out of control. If we can't do any better than this, I think we would all be better off, and I'm dead serious, to adjourn and let's try again tomorrow."

Speaker Brunsvold: "Mr. Black makes a very good point. The Chair has been trying to keep the noise level down and thank you, Mr. Black, for those comments. Mr. Stephens, for what reason do you rise?"

Stephens: "Mr. Speaker, what did he say?"

Speaker Brunsvold: "He was chastising the Body for the noise level. And Mr. Black is correct, we need to have silence in the chamber. We're discussing very important issues here for the state. Committee Reports."

Clerk Rossi: "Committee Reports. Representative Barbara Flynn Currie, Chairperson from the Committee on Rules, to which the following measures were referred, action taken on November 17, 1998, reported the same back with the following recommendations: Amendatory Veto Accept Motions on House Bill 2367 and House Bill 3129 have been approved for consideration. Supplemental Calendar #1 is being

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distributed."

Speaker Brunsvold: "Representative Gash, are you prepared to do House Bill 2370?"

Gash: "Mr. Speaker, is there a Democratic Page in the House?"

Speaker Brunsvold: "Is there a what?"

Gash: "A Page."

Speaker Brunsvold: "A Page."

Gash: "Is it possible to borrow one of the Republican ones?"

Speaker Brunsvold: "Mr. Schoenberg's daughter is over here on the Republican side of the aisle if you'd like to have her come over and act as a Page."

Gash: "I'm not sure how she feels about the Bill. Mical? I think she's otherwise occupied right now. I actually would like to hand something out, but maybe we'll find someone who can do that while we're talking."

Speaker Brunsvold: "Are you ready to proceed, Representative? Okay, on page 3 of the Calendar appears House Bill 2370, Amendatory Veto Motion...Amendatory Veto Motion #1, Representative Gash."

Gash: "Yes, I would ask that we override the Governor's Amendatory Veto. There is absolutely no need for this Amendatory Veto. While I understand the Governor's concerns, the issues that he discussed in his Amendatory Veto were thoroughly discussed by the coalition of more than a hundred groups that has been working on this legislation. Frivolous lawsuits are not the result of religious liberty legislation. There is no need whatsoever for the Amendatory Veto. It's already written into the Bill that there...if there is a compelling interest, that the government can trump religious freedoms. The Federal Govern... According to the Governor, people who are incarcerated in an Illinois penal institution should be

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denied their religious rights. And I'd like to point out that this definition actually strips away the religious rights of people who are held in custody, but not charged with a crime. People who are arrested, but not convicted. People in jail while awaiting trial and children in reform schools or juvenile homes. There were only a small number of prisoner lawsuits actually based on RFRA while it was in effect. Out of 40,598 total civil cases filed in Illinois, only three of these were based exclusively on RFRA. Illinois has already put limits on prisoner litigation. In 1996 we passed and I worked on Prisoner Litigation Reform Act. His concerns are already addressed in that. Not one state which has passed a RFRA has excluded prisoners from protection. Not one state. In Florida, in fact, the number of prisoner RFRA court cases actually went down after RFRA went into effect and religious based grievances filed by prisoners, both RFRA and non-RFRA, were less than three-quarters of one percent of all grievances. In fact, it's important to point out that no prisoner security problems have resulted from RFRA. As the largest prison ministry in the country, with over 50,000 volunteers, the Prison Fellowship Ministry is not aware of one, not one single prisoner security problem caused by RFRA. Illinois citizens deserve religious freedom. It's important that we not deny prisoners access to the one thing that's actually been proven that can change their life. It makes no sense to restrict that one thing, religious involvement, which has... Prisoners need this protection. They're not able to attend services as we know, other than that which the prison allows. Several studies have shown that forget... they programs are effective in changing prisoners attitudes, character and heart and significantly reduces

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recidivism and eases prison tensions. The National Institute of Health Care Research found that prisoners rates of recidivism drops by 65 percent for those who participate in prison fellowship bible studies and seminars. It's important to maintain the integrity of this Bill the way it was written. We have passed out several different sheets and many groups are working on this. We just recently passed out the Tribune editorial which states very strongly that this Amendatory Veto should be overridden and I urge you to vote to support the integrity of the Bill."

Speaker Brunsvold: "The Lady has asked for the passage, and on that question is there any discussion? The Gentleman from Cook, Mr. Hassert."

Hassert: "Thank you, Mr. Speaker. I rise in support of this Bill and I'd just like to read something into the record."

Speaker Brunsvold: "Proceed."

Hassert: "Government, at whatever level, should not trample...not trample the exercise of religion whether it be a church, synagogue or other religious institutions. Whether it be a religious service, activities of a parochial school, building of grounds or play areas. The clear intent of this legislation is to establish a very high standard that must be met before government, at any level, try to restrict religious freedom in the State of Illinois. And even if this high standard is met, any government interruption must be a least restrictive...possibly to achieve in complying...government interests. Consideration of health and safety as well as neighboring property considerations that might warrant government interference with activities not of a religious nature, are insufficient in this context. This law establishes a high standard.

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Our intent is clear to protect religious institutions and the spectrum of religious expressions in word and deed from government interference that restrict religious freedom. I support this legislation and urge my colleagues to do likewise. Thank you."

Speaker Brunsvold: "Further discussion? The Gentleman from DuPage, Mr. Tom Johnson."

Johnson, Tom: "Yes, Mr. Speaker and Members of the House."

Speaker Brunsvold: "Proceed."

Johnson, Tom: "I rise in strong support of overriding the Governor's Amendatory Veto on this particular Bill and I do it for several reasons. Number one, I believe all of you know that we debated this in Spring Session. We passed this Bill unanimously out of this House. Why anybody in their right minds wants to back off from how they voted earlier this spring is beyond me, because the issues that were raised in the Governor's Amendatory Veto, being the exemption for Department of Corrections, was...is, in fact, a red herring, was, in fact, a red herring and will for always be a red herring and I think that was pointed out in the Spring Session. In closing I want to just read what I think encapsulates what I think most of us in here believe right now. This is in a letter that many of you received from John Schmidt, who worked on this legislation when it was before the Congress and I read, 'When Congress adopted the Federal RFRA, it considered and rejected proposals to exempt prisoners from its application. It did so because of the view that the principle of religious liberty is a universal one from which no one, not even prisoners, should be excluded.' We all know that our recidivism rates in the Department of Corrections, in this state as well as across the country, are outrageous. We have recidivism rates

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approaching 50 percent in this state, and that's within two years of release of incarceration. We also know that those who have the least likelihood of recidivating and where the greatest successes are, are those who have addressed the more deep-seated moral and spiritual issues that drove them into a life of crime originally. To presume that we should not encourage as opposed to repress religious freedoms to satisfy the...either the budgetary or whims of the Department of Corrections is absurd. We will pay a dear price to exclude those who probably need this protection more than anybody else and I urge a strong override of the Governor's Veto on this measure. Thank you."

Speaker Brunsvold: "Further discussion? The Gentleman from Cook, Mr. Lang."

Lang: "Thank you, Mr. Speaker, Ladies and Gentlemen. Mr. Speaker, could we try to get the noise level down in here, please?"

Speaker Brunsvold: "Yes, Mr. Lang."

Lang: "You can use some of my time to do that, it's perfectly okay. Thank you."

Speaker Brunsvold: "Could we get all staff off the floor, please, and retire to the back or the edges. Would it... may help. Everyone's glad to see everyone, Mr. Lang, and they are happy to be back together here in Springfield working on the state's business."

Lang: "Well, thank you, Mr. Speaker. Ladies and Gentlemen, this is a very important piece of legislation, a Bill that passed unanimously in the House and unanimously in the Senate for good reason, because this Body, both the House and the Senate, recognize the importance of religion in the life of Illinois. A very unique coalition put this Bill together. Religious entities and groups from the far left,

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groups from the far right and everyone in the middle. In fact, if you take a look at the list of people who were for this Bill, if you take a look at the groups that got together to help pass this Bill, you see a very unique coalition which may never be duplicated. And for that reason alone we ought to go ahead and override this, but of course there's more. The Governor recognized in his veto message how important religion is in the life of Illinois. He said that very clearly. Then he went on to talk about the importance of the correction system. Indeed, we do have to have control over our prisoners in Illinois. But this General Assembly, even at a time where we're spending a lot of time trying to show everybody how tough on crime we are and how we need to take benefits away from prisoners, take away their cable TV, take away their weights, take away their extra privileges to show everybody how tough we're going to be on the prisoners in Illinois, even at such a time we didn't feel it appropriate to take away religious freedom from prisoners in Illinois. The Governor's made a mistake here. He's made it for what he probably believes are very good reasons, but nevertheless he's made a mistake. The facts are very clear that where we allow religion to get involved in the lives of those who are incarcerated, this is one of the tools they use to lift themselves up out of prison, get back into the neighborhoods and communities of Illinois and become useful and productive citizens. Where we take this away from them, we're taking more than their liberty away. We're actually attacking something more important, we're attacking their soul. Now the General Assembly is generally not the place where we discuss the soul of people in Illinois. We discuss laws for the benefit of improving

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people. In this case I think we need to pay some attention to the soul of the people in prison. They are there because they've had sometimes a hard life, sometimes they've made poor decisions, but almost all of them would like to be out of prison and in the neighborhoods of Illinois and we need to help make them productive citizens. And while we talk about rehabilitating criminals and while we talk about how to make their life in prison such that they would not ever want to go back, we need to give them all of the tools appropriate to making sure their lives are what they ought to be and, accordingly, we need to correct the error that the Governor has made here. We need to make sure that everyone in Illinois has a right to pursue their religion as they see it. That's the Bill we passed, that's the Bill the Governor vetoed and we should restore this Bill to its original form so that we can say to the prisoners of Illinois, yes, perhaps you belong in prison, perhaps you've made some serious mistakes and you will pay for those, but we recognize that your religious rights are important and that your religion is a tool that we will help you use to help the State of Illinois become a better place in which to live. I strongly support the Override Motion."

Speaker Brunsvold: "Further discussion? The Gentleman from Cook, Mr. McKeon."

McKeon: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. I also rise in support of the override of the veto. The red herring that was referred to earlier dealt with the notion of security within the correctional system, yet we know from experience in the federal system that security has not been compromised. There's only been 100 cases published that have been made in the Federal RFRA...under



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the Federal RFRA Act and only nine of those cases were found in favor of the inmates bringing forth the action. In all cases the courts have deferred to the correctional system in terms of their need to provide security within those federal correctional facilities, and there is no reason to believe that the Illinois courts will act any differently. The only extensions of this law, and protections, will be in those cases where it is an essential religious liberty that does not compromise prison security and I urge your 'yes' vote to override the Governor's veto. Thank you."

Speaker Brunsvold: "Further discussion? The Gentleman from DuPage, Mr. Roskam."

Roskam: "Thank you, Mr. Speaker and Ladies and Gentlemen of the House. I want to echo what the previous speaker said and sort of highlight some of the earlier comments and that is simply this. A number of us over the past several years have had a real interest and a real concern about the Illinois prison system. Representative Gash Chairs the House Judiciary Criminal Law Committee. Representative Tom Johnson has been the leader in this chamber along with Representative Dart in terms of getting a hold of the mismanagement of the prison system. And here we have Representative Gash and Representative Johnson and myself who have also been involved on that issue, saying, 'This is a great opportunity for us to stand up and do the right thing' not only from the management of the prison point of view but also, friends, because our religious liberty is our most sacred liberty. That is a liberty that is bestowed upon us by God, our Creator, and not by the state. And as was previously said in a press conference today, 'What the state gives, the state can take away', and that

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should put a chill through everyone of us. We need to stand firm today on behalf of those who are the least popular, who are voiceless and in many cases should be shunned by our community and yet those people deserve these protections under the law. So I ask that you stand up with us, do the right thing. Let's reject this ill-advised Amendatory Veto and restore this statute to its fullness. Thank you."

Speaker Brunsvold: "The Gentleman from Vermilion, Mr. Black."

Black: "Thank you very much, Mr. Speaker. Will the Sponsor yield?"

Speaker Brunsvold: "Sponsor yields."

Black: "Representative Gash, there's been a great deal of information promulgated and given out over the last two or three weeks about this Bill, including... Excuse me. About the Governor's Amendatory Veto including information that if we uphold the Governor's Amendatory Veto, that there will be no religious services, no mission outreach in any of our prisons or jails in the State of Illinois. Is that a true statement?"

Gash: "I would certainly hope not, but I do..."

Black: "No, no. Don't give me...don't give me a sermon. Is that a true statement?"

Gash: "I'm not sure what you're referencing. Can you tell me what you're referencing?"

Black: "The proponents of your Motion are saying that if..."

Gash: "Proponents are concerned that if?"

Black: "Yes. How many...and you should know the an... You don't have a prison in your district, do you? I do. Do you have any idea how many chaplains do we employ as state employees under the Department of Corrections?"

Gash: "I don't know how many chaplains we employ, but I do know

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this. One of the things that RFRA would do would be to...guidelines are in effect which would make a situation where when there is a religious situation, rather than just having a guard arbitrarily make a decision about whether that religious freedom will be upheld or not, those particular incidences would go to the prison chaplains who are far more appropriately situated to make that decision. That's a very good question."

Black: "Well, for your information we employ 62 chaplains. Do you have any... can you give me any idea how many thousands of people entered the state prison system last year to minister to the spiritual needs of our inmates?"

Gash: "This particular legislation would make it so that those people would be able to do that, would reduce..."

Black: "Wait a minute, Representative. How many people last year went into our state prison system to minister to the spiritual needs of inmates?"

Gash: "Well, many people did..."

Black: "Four thousand. So all I'm asking you to do is to admit, as you well know, this Amendatory Veto does not diminish in any capacity the right of an inmate to avail himself or herself of religious counseling, of spiritual counseling, of the right to enjoy and practice a religion that that inmate wants to do within acceptable grounds of institutional security. Now nothing is going to change. Nothing is going to change by the Governor's Amendatory Veto. All right? You know, I think we need to debate this Bill on a very low level. I mean a lower, low emotional level. The Governor's Amendatory Veto strips nothing from an inmates ability to access religious counseling or spiritual needs outreach."

Gash: "I think that the Sponsors of the Bill and the proponents

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of the Bill would like to think that this religious fundamental right does exist and cannot be trumped unless there is a significant compelling interest. The reason we have brought the Bill forward is to protect that right. There's no question that I would agree that that should already be the case, but there may be many situations where that wouldn't be the case and we don't want this decision being made arbitrarily by guards who may not be..."

Black: "Representative, would it be a... would it be an accurate assertion..."

Gash: "And, Representative Black, you do understand as well as I do, since you've been here in fact longer than I have, in that we frequently enact legislation in order to protect certain rights. It may be that we do feel that those rights should exist and, in fact, we do. But we want to make sure about that by making sure that we have in statute requirement that a strict scrutiny test be used in these circumstances requiring that the government must show a compelling interest. By the way, you do understand this legislation does not automatically predict outcomes. It does not say that religious exercise will always be allowed by any means. Written right into the Bill is the compelling interest, the strict scrutiny test which would require that the government show merely that they have a compelling interest..."

Black: "I see."

Gash: "...and they're doing so in the least restrictive way in order to overcome that."

Black: "I see."

Gash: "So in many situations..."

Black: "I see. Is that why when you first presented this Bill a year ago, that you said that cities would have the right to

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go beyond this and make protected classes of certain people who may not be in the mainstream of religion in America?"

Gash: "I don't understand your question or why that's related."

Black: "Oh, I think you do. You were talking about a city's right to enact a gay rights ordinance, weren't you? And didn't we have to come back and amend the Bill later because of that statement?"

Gash: "No, we didn't; I'm not clear on what you're saying."

Black: "Oh, well, maybe I'm mistaken but I think we did. I think we did, Representative. See, you can't have this Bill both ways."

Gash: "We definitely did not have..."

Black: "See, you can't have this Bill both ways, Representative."

Gash: "With all due respect, Representative, we definitely did not do that."

Black: "You can't say we're going to have religious...fundamental religious freedom and yet give the City of Chicago the right to pass a gay rights ordinance. So you can't stand here and have it both ways."

Gash: "This Bill does not predict outcome."

Black: "Uh, huh."

Gash: "And, by the way, you are not correct when you say that we came back and amended this Bill, we certainly did not."

Black: "I think it had to be a clarification of intent. But we can argue that later."

Gash: "I'll be happy to."

Black: "Failure to enact the Governor's Amendatory Veto... Mr. Speaker, to the Lady's Motion."

Speaker Brunsvold: "Proceed."

Black: "The easiest thing in the world for me to do would be to sit down, shut up and don't rock the boat and vote for her Motion. That would be the easiest thing to do. I don't

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want to get into an argument and a fight with people back home who believe strongly, stridently in this Bill. I voted for this Bill last spring. But I have a prison in my district and I never once thought last spring what this might do to an institution that, whether we like it or not and we've passed the laws so we bear the responsibility, those institutions are different. They are different from any community in which any of us live. So I don't want to swim upstream. I don't want to go back home and have the people who believe strongly in this Bill yell at me and get mad at me. None of us want that. But I believe they send me here to try to do what I think is right based on the information that I have. Now let's just look. I have a prison in my district. Let's just look at what some of the prison guards have told me will happen in their opinion. We don't know. This is all conjecture. Inmates will most likely refuse to be strip-searched on religious grounds. Gangs and other groups in a prison will assert religious beliefs in order to meet, organize and distribute information in furtherance of criminal activity has as already been attempted by inmate members of the El 'Rukin' Gang. What I think the Governor saw in this Bill that maybe we didn't last spring, was the definition of exercise of religion and the court, the case law, has indicated that exercise of religion means any act that is substantially motivated by religious belief whether or not the religious exercise is compulsory or central to a larger system of religious belief. So let's just take what might happen as was brought up to me by people who work in these institutions. The requested activity may not be fundamental, central or even portent to a larger system of religious belief. Even non-essential or peripheral

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religious practice must be accommodated unless there is no least restrictive alternative to restricting the activity. The requested activity need not be supported by any religious authority, documentation or testimony indicating that it's central or fundamental or an important place in that inmate's religion. I'll give you two examples of what has already happened under this Bill, one in New York. The New York prisons were enjoined under the federal act from prohibiting inmates from publicly displaying prayer beads comprised of 99 beads. The prison officials in New York had demonstrated a compelling interest as beads could be used as gang identifying colors. Guess what the court ruled? The court ruled that the least restrictive alternative would require a correctional officer to distinguish when the beads were being used for legitimate religious practice and when they were being used for gang activity. Now I'm not sure how a correctional officer can do that. Last, but not least, the court could decide that the hiring of more guards to supervise a requested religious activity would be less restrictive than denying the practice. Now, Ladies and Gentlemen, I don't know if I'll be the only one to vote against the Representative's Motion, but I think there comes a time in your duty, when you're elected to this Body, that you not only listen to those people who want us to override the Governor's Amendatory Veto, and I respect those people and I respect what they are trying to accomplish, but I also respect the fact that we as a Legislative Body have delineated prisons as different institutions under law. And if what half of what the prison guards tell me come to pass, we will simply diminish the security and safety, not only of the inmates in our institutions, but of the correctional officers who

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work 40 or more hours a week trying to maintain order in a system that is overcrowded and coming literally apart at the seams. So ask yourself, might an inmate misuse this? Well, they've misused a lot of things. They have seven days a week, 24 hours a day to determine what they will do. What will our response be when it says it's against my religion to go into a room that has bars on the windows and doors? It's against my religion to eat in a communal setting. I must eat by myself. It's against my religion to go to bed prior to a certain time at night. It is against my religion to have a roommate of the same sex in any cell less than 1,000 square feet. Are some of these silly? Probably are. Will they be used against us? Yes, they will. Most everybody on this floor voted two years ago to try and restrict frivolous lawsuits on behalf of inmates. The bottom line is this. No one, and certainly not me, would stand on this floor to inhibit anyone's right of religious freedom. But in the people in my district that I've had the opportunity to talk to, some of them at least have told me, 'Representative, we do see the difference between our communities, our schools, our public institutions and our prisons.' There is a difference. I would ask you to search your soul and vote 'no' on the Representative's Motion to Override."

Speaker Brunsvold: "Further discussion? The Lady from Cook, Representative Monique Davis."

Davis, Monique: "Thank you, Mr. Speaker. I rise in support of this legislation, the overriding of this veto, for the simple reason that I have great and grave concern whenever any group is going to be denied the freedoms that others enjoy. Surely prisoners freedoms have been abridged as far as their coming and their going. But the freedom that made



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America or continues to make America great, is the freedom to practice ones religion. Today I'm wearing a red and black suit. Some may know that this is truly a gang color. But if I walk into a prison as a State Legislator or if I walk into a prison with a briefcase or a notebook, a guard should have the intelligence to be able to distinguish whether I'm wearing this suit as professional dress or I'm wearing this suit and this color as a gang member. The same can be said for beads. If a prisoner has beads and those beads are in reference to how he or she practices his or her religion, the guard should have the intelligence to know the difference between those things that are itemized that mean gang membership and those things that mean these are being used for the purpose of worship. In the State of Illinois, as all over this country, we must be more concerned with the rehabilitation of the people who are eventually going to come out of prison, and one of the first steps in that rehabilitation, one might think, is the encouragement of the practice of ones religion. To even suggest, to even suggest that prisoners would use or misuse the opportunity to pray to the God that they believe in, to read the literature that is uplifting for them, is a bit disingenuous. I'm surprised that this Governor... I encourage, I encourage all of us to remember that a number of people imprisoned in the State of Illinois, as around this country, are truly innocent. All of them are not guilty. DNA has even proven that some people have languished in prisons for ten, fifteen years, even on death row, but they were innocent victims. God forget...they forbid they wouldn't have the right to practice their religion in order to survive such an ordeal. I urge a 'yes' vote in overriding this discriminatory piece of

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legislation that won't serve to make our society better. By not overriding this legislation we continue to put our citizens in jeopardy as we put unrehabilitated prisoners back out on the street. I urge a 'yes' vote, resoundingly."

Speaker Brunsvold: "Representative Gash to close."

Gash: "I do want to address a previous opponent whose name I won't use in debate comments. While well-intentioned and I understand his concerns, in fact, he's not accurate about a lot of what he says and he probably didn't realize that in the Bill it must be in order for someone to demand exercise of their religious freedoms. They actually must show that there is a substantial burden on their religious practices. It can't just be some silly little thing. I want to make sure that people are aware that the Illinois Association of Chiefs of Police is behind this legislation and it may not be a coincidence that I, as the Chair of the Judiciary Committee who does have significant concerns about the prisons, am the Chief Sponsor of this legislation and Representative Tom Johnson spoke up in support of this legislation and he is the immediate past Chair of that committee. And Representative Roskam spoke about it and he is the Republican Spokesman on that committee, and many people who have been involved in those types of things in this House are all in strong support of feeling this is something we should do in order to prevent recidivism and to be tough on crime. It also should be pointed out that this Bill was passed at the federal level and was expected to address the federal and the state's issues. It was then invalidated by the Supreme Courts at the state level because the Federal Government was deemed not to have the authority to enact it and that is why we brought it forward

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here. But, in fact, it's in effect in the federal prisons and, Representative, and anyone who may have been opposed, should be aware that it is in effect in the federal prisons and they're fine. The Department of Justice strongly supported the passage of RFRA in 1993 and, in fact, opposed an exemption for corrections. The Department has also vigorously defended RFRA against challenges since its passage and continues to do so regarding its application to the Federal Government. I also want to reference... I hope that you have gotten a copy, all of you, of all the different groups, incredibly disparate coalition, from all different sides of the legislative arena. What has been considered the far left, what has been considered the moderate, what has been considered the far right. And I also just want to reference you to the Tribune editorial which we passed out on this, which talks about the Governor's Amendatory Veto, and says that that's a bit overwrought and prisons would be able to invoke the compelling interest argument. Few institutions would seem to have stronger grounds for doing so. So, while the Representative who opposed this Amendatory Veto on the grounds that there would be all kinds of, frankly, absurd things that would come out of it, that just hasn't happened. The Federal RFRA was in effect for many years in Illinois, and that didn't happen in Illinois. It's in effect at the federal level and that's not happening. So, with all due respect, that's just inaccurate. I would urge you to refer to any of the material that you have in front of you, and I will just rephrase the last line of the Chicago Tribune editorial which is, the votes should be there to override the Governor's attempt to recast this legislation."

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Speaker Brunsvold: "The Lady has closed. The question is, 'Shall House Bill 2370 pass, notwithstanding the Governor's specific recommendation for change?' This Motion requires 71 votes. This is final action. All those in favor should vote 'aye'; all opposed vote 'nay'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On that question there are 110 voting 'yes', 3 voting 'no', 1 voting 'present'. This Motion, having received the required Three-fifths Majority, the Motion to Override prevails and House Bill 2370 is declared passed, notwithstanding the Governor's recommendations for change. Representative Slone with an announcement. Representative Slone."

Slone: "Thank you, Mr. Speaker. Those Members of the Smart Growth Task Force, whose meeting was temporarily postponed, while we had caucuses and Session, we will be returning to Room 122B and reconvening there to complete our meeting. Please join us there. Thank you. Immediately after Session."

Speaker Brunsvold: "On Supplemental Calendar #1, appears House Bill 2367, under Amendatory Vetoes to accept. Representative Clayton. Representative Clayton."

Clayton: "Thank you. Speaker, thank you very much. House Bill 2367, in part, amended the Uniform Disposition of Unclaimed Property Act, to provide that money of a minor deposited under the Probate Act, may not be presumed abandoned earlier than five years after the minor attains legal age. The Amendment attempts to provide a reasonable time limitation for the termination of when an account of a minor may be determined abandoned. The Governor states that a problem arises, in that the Amendment does not

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require financial institutions to note the minor's date of birth on their records. This could result in the financial institutions retaining the property for 18 years, plus the required five years before reporting the property as abandoned and attempts are made to notify the minor. The change... the only change made to the Bill, is the following wording, 'Such money shall be deposited in an account which indicates the date of birth of the minor.' The Department of Financial Institutions had a concern with regard to this."

Speaker Brunsvold: "Any discussion on the Motion? Any discussion on the Motion? Seeing none, the Lady from Lake to close."

Clayton: "I certainly agree with the concerns that the Department of Financial Institutions had, and think that this Amendment will satisfy their needs, so, I urge a 'yes' vote."

Speaker Brunsvold: "The question is, 'Shall the House accept the Governor's specific recommendation for change with respect to House Bill 2367?' This is final action. It will require 71 votes. All those in favor vote 'aye'; all opposed vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. And on that question, there are 113 voting 'yes', 0 voting 'no', 0 voting 'present'. The Motion having received the required Constitutional Majority, the House accepts the Governor's specific recommendation for change regarding House Bill 2367. On the Supplemental Calendar #1, appears House Bill 3129. Mr. Reitz. The Motion is to accept the Governor's specific recommendation."

Reitz: "Yes, thank you, Mr. Speaker. It said... 3129 just clarifies. The Governor put some language on for a

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couple... two groups. Basically, says that this will not impede... this language will not impede with the Clean Air Act in anyway and a number of other programs that were passed federally. There's no opposition that I know of now on this, and as I said, it should clarify a lot of the problems that were in this Bill, and I'd appreciate an 'aye' vote."

Speaker Brunsvold: "The Gentleman's asked for the passage of the Motion. On that question, is there any discussion? The Gentleman from Vermilion, Mr. Black."

Black: "Thank you, Mr. Speaker. Will the Sponsor yield?"

Speaker Brunsvold: "The Sponsor yields."

Black: "Representative, where is the Kyoto Protocol now in the overall scheme of things? Didn't we just agree to it in some terms..."

Reitz: "At Buenos Aires, yes, they just... I think the administration has signed off on most of the action within the Protocol. We're still imploring them to try and make it a fair Bill more than anything else, so that other developing countries are also going to meet the obligations and reduce their greenhouse gases also."

Black: "Does the United State's Senate have to concur before we can become an actual signatory of the Kyoto Protocol?"

Reitz: "Yes, they do. And I think there is a number of groups that are asking the administration, since they have signed off on this in Buenos Aires, have asked them to submit this for ratification to the Senate, but I'm sure as you're aware that the Senate has also passed a Resolution 95 to 0 that they are opposed to this as long as there are not any type of commitments in there from developing countries so that we're not at a trade disadvantage or energy disadvantage to other countries."

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Black: "Since you and I were last here in May, another coal mine is in the process of shutting down in southern Illinois, isn't it?"

Reitz: "We had two last week, yes. Illinois Power has made a decision to go to Western Coal in the first quarter of 2000, and that's probably 7 to 750 jobs... immediate jobs we're going to lose plus the ancillary jobs, the spin off jobs, so, we looking at probably 2000 jobs in southern Illinois we'll lose because of the Clean Air Act, right."

Black: "I was proud to support your Bill last spring, and I certainly stand in support of your Motion to accept the Amendatory Veto since it's just cleanup and technical, and perhaps this Bill and some additional correspondence from those of us of like mind or United States Senators can bring a degree of common sense to the Kyoto Protocol. I commend you for the work you've done on the Bill."

Reitz: "Thank you."

Speaker Brunsvold: "Further discussion? Seeing none, Mr. Reitz to close."

Reitz: "Thank you. Said this, there should be no opposition at this time to this. We'll accept the Governor's veto. It never was our intent to impede the Clean Air Act or any other federally mandated programs. Thank you."

Speaker Brunsvold: "The question is, 'Shall the House accept the Governor's specific recommendation for change, in respect to House Bill 3129?' This is final action. It requires 71 votes. All those in favor vote 'aye'; opposed vote 'nay'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On that question, there are 115 voting 'yes', 0 voting 'no', 0 voting 'present'. The Motion, having

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received the required Constitutional Majority, the House accepts the Governor's specific recommendation for change regarding House Bill 3129. Mr. Clerk, on page two of the Calendar, under Total Vetoes, appears House Bill 3341. Mr. Turner. Mr. Art Turner."

Turner, A.: "Thank you, Mr. Speaker and Ladies and Gentlemen of the Assembly. I move for the override of House Bill 3341. Thirty-three forty-one was a Bill that passed out of this Assembly earlier this year, which dealt with providing funds for dredging for the Chicago Park Districts. Basically, it would have required the Department of Natural Resources to make a 50% matching grant to the park districts for necessary dredging of the lagoons. Some of you may have saw a series just recently that was in the Tribune regarding parks in Chicago and what was happening along the lake front and Lake Shore Drive. I think that this is just a small step in terms of trying to provide parks and make parks more available and beautify and intensify the use of parks throughout the various communities in the City of Chicago in particular. And I move for the override of the veto. I understand that in the Governor's message he did put... he was willing to put in \$2.5 million this year, but I think a much better way of resolving this question would be a match from the Department of Natural Resources, so, I move for the override of the Governor's veto on House Bill 3341."

Speaker Brunsvold: "The Gentleman's moved for the override. On that, is there any discussion? The Gentleman from Vermilion, Mr. Black."

Black: "I have an inquiry of the Chair, Mr. Speaker."

Speaker Brunsvold: "State your inquiry."

Black: "We don't have a copy of a Motion filed to override. I



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assume that it was either filed just recently or we didn't get a copy."

Speaker Brunsvold: "Mr. Clerk."

Clerk Bolin: "The Motion was filed just recently."

Black: "How recently might recently be?"

Clerk Bolin: "About two minutes ago."

Black: "And the Motion is in writing? I'm assuming that it's a written Motion."

Speaker Brunsvold: "It is, Mr. Black."

Black: "Yes, and perhaps after we have voted on it and before we adjourn next May, we could get a copy of the Motion. Do you think that might be allowable?"

Speaker Brunsvold: "Absolutely."

Black: "Thank you. Thank you very much."

Speaker Brunsvold: "Any discussion on the Gentleman's Motion? Seeing none, Mr. Turner to close."

Turner, A.: "I move for the override of the Governor's veto on House Bill 3341."

Speaker Brunsvold: "The question is, 'Shall House Bill 3341 pass, the veto of the Governor notwithstanding?' This Motion requires 71 votes. This is final action. All those in favor signify by voting 'aye'; opposed voting 'nay'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. There are 65 voting 'yes', 50 voting 'no', 0 voting 'present'. This Motion, having failed to receive the Three-fifths Majority, hereby is declared lost. The Chair is prepared to adjourn on a Death Resolution. We would like the floor cleared please. Staff, retire to the back of the chamber, please. Representative Davis."

Davis, M.: "Yes, Mr. Speaker. We would just like to announce

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that there will be an Elementary/Secondary Education Committee meeting at 9:00 a.m. in Room 114 tomorrow. That's Elementary/Secondary Education Committee meeting, on Wednesday, 9:00 a.m., Room 114. Thank you."

Speaker Brunsvold: "Any further announcements? Mr. Clerk, House Resolution 518."

Clerk Bolin: "WHEREAS, The death of former State Representative Jerome G. Corbett brings much sadness to the members of this Body; and

WHEREAS, He was born in Hardin, Illinois, on January 19, 1917, the son of the late Bartholomew and Margaret Fischer Corbett; on February 13, 1955 he married Jo An Dufner in Hermann, Missouri; he attended Hardin High School and graduated from Routt High School in Jacksonville; he attended St. Louis University and the University of Illinois; and

WHEREAS, He played professional baseball for the St. Louis Browns and will be remembered for being an exceptional athlete and scholar through both high school and college; Jerome Corbett served in World War II as an officer in the Far East Command, where he received a direct commission; and

WHEREAS, Jerome Corbett operated many family businesses, including a Western Auto Dealership, an International Harvester Agency, a dairy, an ice house, a butcher shop, a grocery store, and Corbett Farms; he also owned auto agencies in Hardin and Dufner Corbett Motors in Hermann, Missouri; he currently was associated with his wife, Jo An, in the real estate and insurance business; and

WHEREAS, He served as a member of the House of Representatives from the 50th District in the 76th and 77th General Assemblies and from the 49th District during the

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79th General Assembly; he was active in the Highway Study Commission and the Export Advisory Board; and

WHEREAS, Jerome Corbett served as a 50 year member of the American Legion, a Fourth Degree Knight of Columbus, a board member of the Calhoun County Chapter of the American Cancer Society, a member of St. Norbert's Catholic Church, and a 50 year member of the Missouri Athletic Club and served Calhoun County as the Democratic Chairman for 25 years; and

WHEREAS, Jerome Corbett will be remembered as a man dedicated to nature, to his community, to his faith, and to his family; and

WHEREAS, The passing of Jerome Corbett will be deeply felt by his devoted wife, Jo An; his son, Dufner J. Corbett; his daughter, Kelly Ann Corbett; and his grandchildren, Margot and Christopher; therefore, be it

RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE NINETIETH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we note with sadness and regret the death of former State Representative Jerome G. Corbett and extend our most sincere condolences to his family and friends; and be it further

RESOLVED, That a suitable copy of this resolution be presented to his wife, Jo An Corbett."

Speaker Brunsvold: "On the Resolution, the Gentleman from Jersey, Mr. Ryder."

Ryder: "Thank you, Mr. Speaker. To the Members of the General Assembly. I knew Jerry Corbett as a man of his community for many years. He served at a time of multi-member districts in this Legislature, and he served his constituency well. What I remember most about Jerry Corbett, was the pride that he had in the county that he

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represented, the County of Calhoun, and in the family that he knew and loved. He served at a time that many of us can only remember, and yet, he would go home to his family in Calhoun County, approximately two hour, a little bit more drive, almost every evening. He was a man who loved what he did, loved the county from which he came, loved his family and clearly loved this institution. He would say when he left here, that any cross words, any arguments, stayed in here when we all walked out those double doors. I believe that that's a legacy that we could all remember and know. Today, joining me, I'm honored to have his wife Jo An, his son Dufner, and his daughter Kelly. It is my pleasure to have them here. We have been spending the last few minutes reminiscing of memories concerning Jerry in a time long gone in this General Assembly, but the one thing that remains constant, is the man's love for his family and his love for the constituency that he served. And an even greater sense, the fact that he is a part of all of us, those of us who are fortunate enough to serve the people of the State of Illinois, in this General Assembly. And with that, Mr. Speaker, I would ask the privilege of all Members to be added as cosponsors in this Resolution commemorating and observing the death of a former State Representative."

Speaker Brunsvold: "The Gentleman has asked that all Members be added as cosponsors and asks for the adoption of House Resolution 518. All in favor say 'aye'; opposed 'nay'. The 'ayes' have it and the Resolution is adopted. And Representative Currie now moves that the House stand adjourned until 10:00 a.m., Wednesday, November the 18th. The House is adjourned."